JOSEPH REY
151 Crandon Blvd., #110
Key Biscayne, Florida 33149

April 11, 1988

Gannett Tower Company
c/o Guy Gannett Publishing Company
390 Congress Street
Portland, Maine 04104

ATTENTION: James Baker

RE: Rainbow Broadcasting Co./Bithlo Tower Co. Lease Agreement

Dear Mr. Baker:

In preparation of our year end accounting, it has come to our attention that Rainbow Broadcasting is currently two months in arrears with regards to the rental payments required under the above-caption Lease Agreement. Enclosed please find our check in the amount of $9,999.00 representing the February, March, and April 1988 payments. This payment brings all accounts due and owing current and up to date.

Additionally, we would like to clarify certain discrepancies that have occurred in recent invoices received from Gannett. As you know, the terms of our Lease called for monthly rental payments in the amount of $3,333.00 per month beginning October 1, 1986. The Lease called for an increase in that monthly rent upon the one year anniversary date.

Last summer, during several conversations with Rick Edwards we were advised "not to worry about" the scheduled increase in the monthly rent and to continue paying at the first year rate for at least an additional six months. Mr. Edwards represented that the lower rate would continue in effect for at least six months, possibly one year, and that the amount accruing during the interim would be paid within five years of the Commencement Date.

On February 29, 1988, we received an invoice from Gannett reflecting the increased rental payment. We contacted Mr. Edwards who indicated that he would investigate the discrepancy. On March 31, 1988 we received a revised invoice reflecting rent due and owing at the original rate. Therefore, the enclosed check represents the outstanding two months rent at the original contract rate together with April's invoiced rent.

With regard to Mr. Edwards' April 7, 1988 inquiry pertaining to Channel 18's side mounting at the approximate same height as Channel 65, be advised that we are scheduled to meet with

our engineers to explore the technical ramifications of his proposal. As soon as we obtain their findings, we will contact Mr. Edwards.

In the meantime, pursuant to Article XX of our Lease, we would like to receive from you a certificate stating that all terms, conditions, covenants and agreements under our Lease are current and up to date and that our Lease is in full force and effect. We are in the process of protrated negotiations and this certificate has been requested during the course thereof. Therefore, your prompt attention to this matter would be greatly appreciated.

Finally, with regards to yours of June 30, 1987 please be advised that we recognize and reaffirm our insurance responsibility under Article VI (c) of our Lease. However, our reading of that provision requires liability coverage "with respect to all of Tennant's operations and activities on the premises...". As of this writing Rainbow Broadcasting Company has no "operations and activities" on going at the tower site. Prior to initiating construction we will provide you with all appropriate documentation.

If you have any questions or would like to discuss any aspect of the above, please do not hesitate to contact me.

Sincerely,

Joseph Rey, Partner
Rainbow Broadcasting Company

JR/ap

cc: Mr. R. Edwards ✓

EXHIBIT 9

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	MM Docket No. 89-68
	)	
Amendment of Section 73.606(b)	)	RM-6382
Table of Allotments	)	
TV Broadcast Stations	)	
(Clermont and Cocoa, Florida)	)	

To: The Chief, Allocations Branch

COMMENTS OF RAINBOW BROADCASTING COMPANY

1. Rainbow Broadcasting Company (Rainbow), permittee of Channel 65, Orlando, Florida, hereby responds to the Notice of Proposed Rule Making in MM Docket No. 89-68, released March 23, 1989. Rainbow opposes approval of the proposed exchange of educational Channel 18, Cocoa, Florida and commercial Channel 68, Clermont, Florida.

2. In the first instance, Rainbow asserts that such an exchange would deprive third parties, including existing licensees and permittees such as Rainbow, from competing for either Channel 18 or Channel 68. Foreclosing such competition would contravene Section 309 of the Communications Act and the doctrine enunciated in Ashbacker Radio Corp. v. F.C.C. 326 U.S. 327 (1945) that the application of one party for a new frequency cannot be granted without comparative Commission consideration of other mutually exclusive applications. In the present context, the issuance of a Notice seeking to permi

a specific channel swap is the regulatory equivalent of a legislative "private bill" wherein the Commission's authority and processes are enlisted to further the private interest of a commercial broadcaster, Press Television Corporation, permittee of Channel 68, Clermont, Florida, by changing the reservation of Channel 18 from non-commercial to commercial, thereby foreclosing other qualified parties from competing for the use of the newly unrestricted frequency. Notwithstanding the Report and Order in MM Docket No. 85-41, FCC 86-117, 59 R.R.2d 1455 (1986), such a procedure violates the Act, Ashbacker, supra, and the consistent line of judicial precedent to which the F.C.C. is bound. See, e.g., F.C.C. v. Sanders Bros. Radio Station, 309 U.S. 470, 475 (1940) ("The policy of the Act is clear that no person is to have anything in the nature of a property right as a result of the granting of a license"); Community Broadcasting Co. v. F.C.C., 274 F.2d 753, 759 (D.C. Cir. 1960) ("The basic teaching of the Ashbacker case is that comparative consideration by the Commission and competition between the applicants is the process most likely to serve the public"); Peoples Broadcasting Co. v. United States, 209 F.2d 286, 288 (D.C. Cir. 1953) (Public interest and interests of other operators, not just wishes of existing licensee, must be considered in license modifications).

3. In the present case, the Notice would not only permit private parties to instigate a Commission action under Section 316 to further their private interests; it would also abrogate the prohibition of Sanders, supra, in that it ratifies an improper contractual provision in the acquisition of Channel 18 by Brevard Community College from the previous permittee, Glorious Church of God in Christ, Inc. According to the "Petition for Issuance of Notice of Proposed Rulemaking to Exchange Channels", filed by Press Television Corporation and Brevard Community College on April 15, 1988, Press provided BCC the $300,000 to purchase the permit from Glorious Church and made available some $200,000 worth of equipment and, in return, "Press negotiated an exclusive right to propose a channel exchange with the Glorious Church which right likewise applies to BCC." Petition, pages 4-5 & n.5. At the least, all other statutory infirmities aside, by issuing this Notice, the Commission is now permitting its authority to be used to effectuate the improper grant of a property right in the agreement which transferred ownership to BCC from Glorious Church. While the Commission may not have been aware of the impropriety at the time of the assignment of the license, it cannot now ignore it.

4. In addition to the fundamentally flawed process governing UHF educational/commercial channel exchanges discussed

above, Rainbow specifically opposes the action contemplated concerning educational Channel 18 and commercial Channel 68 because it is unnecessary to achieve any of the purported public interest benefits, because it would subvert the Commission's television engineering standards and because it would in fact undermine the already approved operation of Channel 65 by Rainbow on the Bithlo tower. As discussed hereafter, all of the claimed public benefits could be achieved by Station WRES operating on Channel 18 and all of the purported commercial benefits could be achieved by Station WKCF (formerly WCLU) operating on Channel 68 from an alternative site that would also require no departure from Section 73.685(a) of the Commission's Rules and would provide additional service to a presently underserved population.

5. In the Petition, Press and BCC claim that BCC would secure two basic benefits from the proposed exchange: First, BCC would receive some $1.4 million from Press in consideration for the swap, of which $300,000 has already been advanced. Second, it is claimed that BCC's operation on Channel 68, as proposed, would substantially expand its coverage over that presently provided on Channel 18. These benefits, according to Petitioners, would permit expansion of BCC's Communications Department and increased joint usage by other area schools and colleges.

6. While Petitioners claim of increased coverage is literally correct, it is not a reflection of the true circumstances. WRES has already secured an F.C.C. construction permit for a Channel 18 site near Bithlo (File No. BMPET-861105KJ) which would provide greater area and population coverage than the proposed Channel 68 site. See attached Engineering Statement of Robert W. Denny, Jr., page 2. This site, which would provide 4% greater population coverage, would achieve all of the coverage benefits claimed for WRES and require no channel exchange. Thus the only benefit for BCC/WRES is the opportunity to sell its channel assignment for monetary consideration. Even if the Commission now considers such payments to be in the public interest, the money offered by one individual or permittee cannot be considered unique. Every other interested person or permittee should have the chance to avail himself/itself of the same opportunity; or, if the mere payment of money to an educational station defines the public interest, then the frequency should more logically be offered to the highest bidder, thereby maximizing the "public interest" benefit. Rainbow offers this suggestion only to illustrate the absurdity of using money to define the public interest, not to advocate its use.

7. On the other side, Petitioners claim that a swap permitting Press' usage of Channel 18 in lieu of Channel 68

is necessary to permit WKCF to gain the wide area coverage necessary to make it competitive in the Orlando market. Specifically, Petitioners claim that the "Bithlo antenna farm is the area closest to Clermont from which Press could locate Channel 18 and provide competitive wide area coverage" (Petition, page 17) and that the proposed Bithlo site is the only one that would permit a tall tower and gain F.A.A. approval (Petition, pages 13-19).

8. In fact, all of Press' coverage objectives can be better achieved on Channel 68, while providing city grade coverage of Clermont, its city of license, without requiring waiver of the Commission's television technical standards. As the attached Engineering Statement shows (pages 2-3), the proposed site of Channel 27 is within the Channel 68 permissible site zone, has already received F.A.A. clearance for a 1794 foot tower and is only 7 kilometers from Clermont. Operating from the Channel 27 site, Press, operating on Channel 68, would place a city grade signal over all of Clermont using the Commission's standard prediction method for calculating coverage. In addition, the Channel 27 site would also permit WKCF, Channel 68, to place a Grade A or better signal over all of Orlando, with a signal strength of approximately the same intensity as would result from the channel swap and operation from the Bithlo tower. In short, Press can achieve

all of the benefits it claims necessitate the channel swap on Channel 68, with none of the detriments.

9. In addition to avoiding the effective abandonment of Clermont, its city of license, which is implicit in the proposed swap and use of the Orlando site, Press' operation on Channel 68 from the Channel 27, Clermont site would have the benefit of providing a second to fifth television service to almost 126,000 people. Engineering Statement, pages 5-6. No such service to underserved areas would accrue from the proposed Channel 18 operation by WKCF.

10. Finally, the Notice posits Press' operation from a particular site-- a particular location on the Bithlo tower. Rainbow notes that Press' petition makes no showing of reasonable assurance that the site proposed is in fact available to it. Indeed, Rainbow's engineering analysis indicates that Press' proposed Channel 18 operation would severely and negatively affect Rainbow's Channel 65 operation from the same location. Both Rainbow's construction permit authorization and its lease agreement with the owners of the Bithlo site would preclude Press' Channel 18 operation as proposed. In view of the fact that any alternative coverage prediction method is, as the Notice (paragraph 8) notes, "extremely dependent on the exact facilities proposed", use of such alternatives is "inappropriate in a rule making context where the

transmitter site is . . . not known." Press has not demonstrated and, Rainbow submits, cannot demonstrate that it can operate from the Bithlo site upon which it has premised its proposed channel exchange.

CONCLUSION

Rainbow opposes the modification of the permit of Station WKCF, Channel 68 and the license of Station WRES, Channel 13, as proposed in the Notice. As these Comments and the attached Engineering Statement demonstrate, all of the claimed benefits of coverage and competition can be achieved at least as well by WKCF and WRES upgrading their operations on their currently assigned frequencies. By so doing, WKCF would achieve city grade coverage of Clermont without requiring the Commission to abandon its normal propagation curves for determining coverage contours; would achieve the sought after wide area coverage of the greater Orlando market; and would provide an additional television service for some 126,000 underserved people. Similarly, WRES would achieve greater coverage from its presently authorized construction permit for a Bithlo site on Channel 18

On the other hand, to permit the swap would require the Commission to grant a waiver of Rule 73.685(a) for less than city grade coverage of Clermont or to permit the unprecedented utilization of field strength measurements by alternative methodology from a site for which no reasonable assurance of availability has been or could be shown. Moreover, the procedure

would deprive entities such as Rainbow from competing for the use of Channel 18 in contravention of the Act and controlling judicial precedents.

For all of the foregoing reasons, Rainbow urges denial of the petition for rulemaking filed by Brevard Community College and Press Television Corporation on April 15, 1988 and the termination of this proceeding without amendment of the TV Table of Allotments, Section 73.606(b) of the Commission's Rules.

Respectfully submitted,

Margot Polivy
RENOUF & POLIVY
1532 Sixteenth Street, N.W.
Washington, D.C. 20036

Counsel for Rainbow Broadcasting Company

15 May 1989

EXHIBIT 10

DEFERRAL AGREEMENT

This Agreement is made and entered into this 31 day of August ~~July~~, 1988 by and among BITHLO TOWER COMPANY, a Florida general partnership with principal offices in Portland, Maine ("Landlord") and RAINBOW BROADCASTING, CHANNEL 65, a Florida partnership, with principal offices at Key Biscayne, Florida ("Tenant").

WHEREAS, Landlord is the owner of certain real property ("Premises") located at Bithlo, Florida containing a communications transmission tower ("Tower") and a transmitter building ("Transmitter Building"); and

WHEREAS, Tenant is the permitee of Television Station Channel 65, Orlando, Florida ("Station"); and

WHEREAS, in December, 1985, Landlord and Tenant entered into a Lease Agreement (the "Lease") for lease of space on the Tower and in the Transmitter Building for broadcast of the Station signal; and

WHEREAS, the commencement date of the Lease is defined as the earlier of the date Tenant begins to transmit the signal of the Station or October 1, 1986; and

WHEREAS, as of this date, Tenant's construction permit from the F.C.C. is not final in that it is still under review by the United States Court of Appeals for the District of Columbia Circuit, and thus Tenant cannot yet install its equipment on the Tower; and

WHEREAS, during the period of October 1, 1986 through SAeptember 30, 1987, Tenant paid the rent as provided in the Lease; and

WHEREAS, pursuant to the terms of the Lease, the rent increased as of October 1, 1987 to $65,000 per annum for each year of the two years beginning as of that date; and

WHEREAS, since Tenant has not yet begun broadcasting, Tenant has requested a partial deferral of rent; and

WHEREAS, subject to the terms and conditions contained herein, Landlord has agreed to such partial deferral;

NOW THEREFORE, IN CONSIDERATION OF ONE DOLLAR AND OTHER GOOOD AND VALUABLE CONSIDERATION, the parties hereto agree as follows:

1. For each month during the period beginning on October 1, 1987 and ending on the earlier of (i) September 30, 1989 or (ii) the date twelve (12) months after Tenant begins to transmit the signal of the Station from the Leased Premises, payment of the $2,083.34 of the total monthly rent of $5,416.67 due under the Lease shall be deferred, subject to the terms and conditions contained herein. All rent deferred in accordance with the terms of this Section 1 shall be hereinafter called the "Deferred Rent". The period during which the $2,083.34 monthly payments are actually deferred is hereinafter called the "Defferral Period".

2. The Deferred Rent shall bear interest through the expiration of the Deferral Period at a rate of nine percent (9%) per annum, compounded monthly. The Deferred Rent, together with all then accrued interest (which shall be added to the Deferred Rent and shall be paid as additional principal) (collectively the "Deferred Amount") shall be payable in that number of consecutive equal monthly installments which is equal to the number of months in the Deferral Period. The monthly installments shall be established in that amount which would be sufficient to amortize fully the Deferred Amount at an interest rate of nine percent (9%) per annum over tha afore-referenced payment period. The first such payment shall be due on the first day of the first month following expiration of the Deferral Period.

3. Landlord may, at its option, terminate this Deferral Agreement, accelerate payment of all amounts due hereunder, and exercise any one or more default remedies provided under this Agreement, the Lease, or applicable law, in the event of a termination of the Lease for any reason, or if Tenant or any assignee of Tenant's rights under the Lease: (i) fails to pay any amount when due after notice or defaults in performance of any of its other obligations, covenants or agreements herein or in the Lease; or (ii) shall assign its interest in and to the Lease to any party without the prior written consent of the Landlord [said consent shall not be unreasonably withheld], or (iii) shall become bankrupt, file any debtor proceedings or take or have taken against Tenant in any court pursuant to any statute either of the United States or of any state or district, a petition in bankruptcy or insolvency or for the reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, and that situation shall exist for a period of thirty (30) days.

4. On or after the expiration of the Deferral Period, Tenant will, at the request of Landlord, execute a promissory note evidencing its obligation to pay the Deferred Amount.

5. Section IX (b) of the Lease shall be and hereby is amended in its entirety to read as follows:

Default Reentry. In the event of any failure of Tenant to pay any rental or other sums when due hereunder [items invoiced by Landlord being due within twenty (20) days of receipt] for a period of more than ten (10) days after notice of non-payment shall be given by Landlord to Tenant, ~~or in the event Tenant fails to pay any rental or other sums as set forth in this subsection~~ or defaults in any of its other obligations, conditions or covenants of this Lease to be observed or performed by Tenant, for more than thirty (30) days after notice of such other default shall be given to Tenant by Landlord, or in the event Tenant suffers this Lease to be taken under any writ of execution, or in the event Tenant fails to pay any amount when due or defaults in any of its other obligations, convenants or agreements under The Deferral Agreement (with respect to partial deferral of rent between Landlord and Tenanat and dated ~~July~~ August 31, 1988, then Lanlord, besides other rights or remedies it may have, shall have the immediate right (i) to terminate this Lease or reenter and attempt to relet without terminating this Lease and (ii) in either such event, to remove all persons and property from the Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of the Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

6. This Deferral Agreement shall not in any manner modify or amend the Lease except as explicitly provided herein, and is in no manner intended to waive any rights of the parties under the Lease. This Deferral Agreement and the rights and obligations of the parties hereto shall be governed by, and construed in accordance with, the laws of the State of Florida.

DEFERRAL AGREEMENT

IN WITNESS WHEREOF, the undersigned have executed this Deferral Agreement as of the day and year first written above.

WITNESSES:

LANDLORD: BITHLO TOWER COMPANY
By: GUY GANNETT PUBLISHING CO. d/b/a GANNETT TOWER CO.

Its Vice-President
Broadcasting

MPE TOWER, INC., General Partner

By: _____
Its: Vice Pres

TENANT:

RAINBOW BROADCASTING, CHANNEL 65

By: _____
Its: General Partner

EXHIBIT 11

GANNETT TOWER COMPANY
P.O. BOX 2168, MIAMI, FLORIDA 33055
305-624-6101

August 20, 1990

Mr. Joe Rey
RAINBOW BROADCASTING
151 Crandon Boulevard #110
Key Biscayne, FL 33149

Dear Joe:

Per our telephone conversation of last week, I am sending you blue prints of the proposed Bithlo Tower building expansion.

Actually this is the first time I have seen them also so I need to make ajustments in some areas.

On August 2nd Orange County approved the addition exception permit and we have a year for site plan approval. We are presently ready to request this so we can expedite this procedure.

We have interviewed and selected Miorelli Engineering of Melborne to prepare these plans and we are comfortable with the same for contractor. Obviously this was when we were only constructing a shell for you. Now that you are ready we can review everything. In any case we know from a time stand point and for least interruption Miorelli should complete the permitting process.

Miorelli has estimated the following cost for your area:

Building (proper)	$74,000
HAVC	$12,000
Electrical	$35,000
Total	$121,000

This price is based on estimates of your needs and they will change when we know the exact equipment you will utilize. The price also includes necessary Orange County impact fees.

I will call you later this week so that we can get things moving.

Sincerely,

Richard L. Edwards
Vice-President
Chief of Engineering

RLE/tmh

EXHIBIT 12

Rainbow Broadcasting Co.
c/o Joseph Rey
151 Crandon Blvd., #110
Key Biscayne, Florida 33149

Mr. Richard Edwards
Gannett Tower Company
4330 N.W. 207 Street
Miami, Florida 33055

September 17, 1990

RE: Backup generator space at the Bithlo tower

Dear Rick:

As we discussed during our meeting last Thursday, Rainbow Broadcasting Co. definitely plans to include a backup generator in its RF plant. Consequently we want to reserve the existing space available for that purpose at the Bithlo tower site. Currently we are planning to install a 500 kw generator in that space.

I am sending you this letter of confirmation for the generator space because you mentioned that the space would be available on a first come first served basis and I want to make sure that it is clear that we intend to have a backup generator and therefore require the existing space.

It was good to see you last Thursday and, as we indicated, we will be getting back to you shortly with our comments on the drawings of the proposed transmitter building addition.

Thank you for your cooperation in this matter.

Sincerely,

Joseph Rey
Partner,
Rainbow Broadcasting Co.

cc: Doug Holland

EXHIBIT 13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

JOSEPH REY; LETICIA JARAMILLO; and ESPERANZA REY-MEHR, as general partners of RAINBOW BROADCASTING COMPANY, a Florida partnership,

Plaintiffs,

vs. **Case No. 90-2554-Civ-Marcus**

GUY GANNETT PUBLISHING COMPANY; MPE TOWER, INC.; and GUY GANNETT PUBLISHING COMPANY and MPE TOWER, INC., as general partners of BITHLO TOWER COMPANY, a Florida partnership,

Defendants.

_____/

AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs Joseph Rey, Leticia Jaramillo and Esperanza Rey-Mehr, as general partners of Rainbow Broadcasting Company, a Florida partnership, sue Defendants Guy Gannett Publishing Company, MPE Tower, Inc. and Guy Gannett Publishing Company and MPE Tower, Inc., as general partners of Bithlo Tower Company, a Florida general partnership, and for their Amended Complaint allege as follows:

1. This is an action for specific performance and compensatory damages in excess of $50,000.00, exclusive of interest and costs.

2. Defendant Guy Gannett Publishing Company ("Gannett") is a corporation organized and existing under the laws of the State of Maine and having its principal place of business in Portland, Maine. Gannett does business in the State of Florida under its own name and as Gannett Tower Company and has offices in Dade County, Florida. Defendants have alleged

that in or about September 1989, Gannett acquired the interest of its partner, Defendant MPE Tower, Inc., in Bithlo Tower Company and has continued to do business in Florida as Bithlo Tower Company.

3. Defendant MPE Tower, Inc. ("MPE") is a corporation organized and existing under the laws of the State of Florida and having its principal place of business in Providence, Rhode Island. Prior to September 1989, MPE was a general partner of Defendant Gannett in Bithlo Tower Company ("Bithlo"), a Florida general partnership.

4. Plaintiffs Joseph Rey, Leticia Jaramillo and Esperanza Rey-Mehr are the general partners of Rainbow Broadcasting Company ("Rainbow"), a Florida general partnership. Plaintiffs are residents and citizens of the State of Florida.

5. Bithlo owns a communications transmission tower located in Bithlo, Florida, a community located approximately 20 miles east of Orlando, Florida. The Bithlo tower is 1609 feet in height. The tower is capable of accommodating various types of broadcast antennas, but as currently designed will accommodate only two television antennas.

6. In October 1985, Rainbow was granted a construction permit by the Federal Communications Commission ("FCC") to operate a new UHF television station, Channel 65, in Orlando, Florida. Under the terms of the FCC permit, Orlando, Florida is the city of license for Channel 65. In its application to the FCC, Rainbow stated that it intended to build its own tower to support its broadcasting antenna.

7. After Rainbow received its construction permit, Bithlo approached Rainbow seeking to secure Rainbow as a tenant for antenna space on its tower.

8. In an attempt to obtain an agreement with Rainbow, Bithlo created a situation of real or illusory competition between Rainbow and other potential television lessees for the "top slot" on the Bithlo tower. In so doing, Bithlo represented to Rainbow that the "top slot"

available for a television broadcasting antenna would be leased on a "first come, first served" basis and that any television broadcaster who failed to reserve the "top slot" would be relegated to a lower position on the Bithlo tower. On October 21, 1985, Bithlo advised Rainbow by letter that the top slot on the Bithlo tower would be leased "momentarily" to another broadcaster and implicitly urged Rainbow to hurry if it wanted to obtain the top position for itself. A copy of Bithlo's October 21, 1985 letter is attached as Exhibit 1.

9. On or about January 6, 1986, Rainbow entered into a Lease Agreement ("Lease") with Bithlo through its general partners, Defendants Gannett and MPE, whereby Rainbow leased the top slot on the Bithlo tower. A copy of the January 6, 1986 Lease Agreement between Rainbow and Bithlo is attached to this Amended Complaint as Exhibit 2.

10. The Lease contains four exhibits which were incorporated into and formed part of the agreement between Rainbow and Bithlo. Exhibit C to the January 6, 1986 Lease is a drawing of the Bithlo tower. In accordance with the representations made to Rainbow during the course of negotiation and the consistent understanding of the parties, Exhibit C to the Lease depicts two available slots for television antennas on the tower, one above the other, with a measurable space between the top and bottom slots.

11. The January 6, 1986 Lease between Bithlo and Rainbow provides that Rainbow has leased the top television antenna slot as depicted on Exhibit C to the Lease. By selecting the upper position, Rainbow assured itself that any other television antenna on the Bithlo tower would be below the Rainbow antenna.

12. Rainbow's decision to enter into the January 6, 1986 Lease was dependent upon its understanding that the Bithlo tower was configured in such a way that there were only two available positions for television antennas, one above the other, and that the two positions did not overlap in any way. That understanding was based on representations made by Bithlo during